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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,117	01/04/2002	Steven Ausnit	769-222 Div.2	1073
29540	7590	06/15/2004	EXAMINER	
PITNEY HARDIN LLP			SIPOS, JOHN	
7 TIMES SQUARE			ART UNIT	
NEW YORK, NY 10036-7311			PAPER NUMBER	

3721

13

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,117

Applicant(s)

AUSNIT, STEVEN

Examiner

John Sipos

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-42 and 48-50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 40-42 & 48-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 3721

The previous Office action has been vacated and replaced with the following action.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 40-42 and 48-50 are rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Thomas (5,713,669) or Dobreski (5,669,715). Each of the patents to Thomas and Dobreski disclose a method of opening bags that comprise a slider/zipper and a tamper evident structure at least partially enveloping the zipper. Each discloses a bag that comprises a package body, zipper closure with two mating profiles (24/28 in both patents), a slider on the closure (32 in both patents) for opening and closing the closure and the bag, a tamper evident structure (36/38 in both patents) encasing the zipper closure and perforation line (40 in both patents). The opening process comprises removing the tamper evident structure along the perforation line and moving the slider to disengage the zipper profiles to open the bag. See column 4, line 6 et seq. of Thomas and column 4, line 21 et seq of Dobreski..

Claims 40-42 and 48-50 are rejected under 35 U.S.C. ' 102(e) as being clearly anticipated by the patent to Stolmeier (6,257,763). The patent to Stolmeier discloses the method of opening bags that comprise a slider/zipper and a tamper evident structure. This patent discloses bags that comprise a package body, zipper closure with two mating profiles (70), a slider on the closure (71) for opening and closing the closure and bag, a tamper evident structure (60) encasing the zipper closure and perforation line (72). The opening process comprises removing the tamper evident structure along the perforation

Art Unit: 3721

line and moving the slider to disengage the zipper profiles to open the bag. See column 3, line 59 et seq.

Claims 40 and 48 are rejected under 35 U.S.C. ' 102(e) as being clearly anticipated by the patent to Thieman (5,956,924). The patent to Thieman discloses the method of opening bags that comprise a slider/zipper and a tamper evident structure. This patent discloses bags that comprise a package body, zipper closure with two mating profiles (32/34), a slider on the closure (48) for opening and closing the closure/bag and a tamper evident structure (127) encasing the zipper closure. The opening process comprises removing the tamper evident structure and moving the slider to disengage the zipper profiles to open the bag. See column 6, line 6 et seq.

Claims 41,42,49 and 50 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Thieman (5,956,924) in view of Hustad (5,456,928). The patent to Thieman lacks the use of perforations lines. The patent to Hustad discloses the method of opening bags that comprise a zipper and a tamper evident structure. This patent discloses bags that comprise a package body, zipper closure with two mating profiles (17/18), and a tamper evident structure (integral 21 or separate tape 31) encasing the zipper closure and perforation line (25,33) to ease the removal of the tamper evident structure. The opening process of Hustad comprises removing the tamper evident structure along the perforation line and separating the zipper profiles to open the bag. It would have been obvious to one skilled in the art to provide the Thieman bag with perforation lines as shown by Hustad to ease the removal of the tamper evident structure. Note that both the Thieman and Hustad methods use a separate tamper evident tape.

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are not persuasive and the response to those arguments of the previous Office action is repeated..

Applicant's argument that since the instant claims were copied from patents wherein these claims were found allowable is not convincing. Upon renewed filing of the claims a complete examination is made of the claims. The examination includes a review of the claims for rejections based on formal matters as well as prior art. The rejections made in the last Office action are considered proper and are maintained.

Contrary to Applicant's argument that Thieman does not appear to remove the tamper evident structure as recited in the claims, Thieman clearly states and shows in Figure 5 the application of a separate structure 127 "over the exterior of slider" (see column 6, line 10). Since the tamper evident structure is placed over the slider it needs to be removed before the slider can be accessed.

Regarding the Stolmeier reference, it is clear from the drawings (for example, Figure 7) and the specification (column 3, line 59 et seq.) that perforations 72 are provided "which facilitates removing the tamper evident sheet 60" thereby allowing access to the slider.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 3721

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

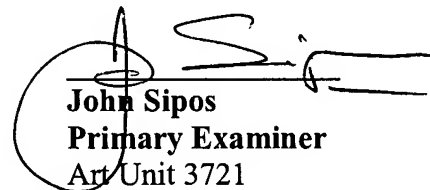
The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



**E. ROLLINS-CROSS
GROUP DIRECTOR
TECHNOLOGY CENTER 3700**



**John Sipos
Primary Examiner
Art Unit 3721**